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6/4/04
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

APPLICANT: RAPPS, GARY M.
SERIAL NO.: 10/017,957
FILING DATE:: 12/14/01
ENTITLED: SELF-RETAINING ELEMENT FOR A BEHIND-THE-EAR COMMUNICATION DEVICE

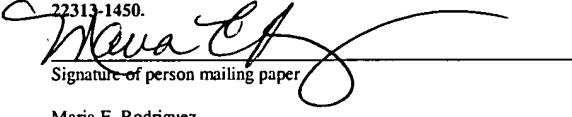
DATE: 5-21-04
DOCKET NO.: CM02023K
ART UNIT: 2643
EXAMINER: TRAN, SINH N

5-21-04

CERTIFICATE OF MAILING

Date of Deposit: 5-21-04

I hereby certify that this paper is being deposited with the United States Postal Service on the date indicated above as first class mail in an envelope addressed to the Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450.


Signature of person mailing paperMaria E. Rodriguez
Printed name of person mailing paper

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Technology Center 2600

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In accordance with 37 C.F.R. §1.56 and in compliance with 37 C.F.R. §§1.97 and 1.98, the reference(s) listed on attached Form PTO/SB/08 and/or subsequently identified herein are for consideration by the United States Patent and Trademark Office. Pursuant to the Office waiving the requirement under 37 CFR 1.98 (a)(2)(i) for submitting a copy of each cited U.S. patent and each U.S. patent application publication for all U.S. national patent applications filed after June 30, 2003 and for all international applications that have entered the national stage under 35 USC §371 after June 30, 2003, copies of such reference(s) are not submitted herewith.

I. COPIES

a. A legible copy of (i) each U.S. patent or patent application (if necessary) and each foreign patent; (ii) each publication or that portion which caused it to be listed; and (iii) all other information or that portion which caused it to be listed, is included herewith.

b. Any patents, publications or other information which are listed on Form PTO/SB/08 which are not enclosed herewith were previously cited by or submitted to the PTO in one of the following applications which has been relied upon for an earlier filing date under 35 U.S.C. § 120:

U.S. Serial NumberU.S. Filing DateII. CONCISE EXPLANATION OF THE RELEVANCE (check at least one box)

a. Except as may be indicated below in (b) of this section, all of the patents, publications or other information are in the English language (concise explanation not required).

- b. A concise explanation of the relevance of all patents, publications or other information listed that is not in the English language is as follows:
- c. The following additional information is provided for the Examiner's consideration:

III. CROSS REFERENCE TO RELATED APPLICATION(S)

The Examiner is advised that the following co-pending application(s) contain(s) subject matter that may be related to the present application. By bringing this (these) applications to the Examiner's attention, Applicant(s) does(do) not waive the confidentiality provisions of 35 U.S.C. § 122.

<u>U.S. Serial No.</u>	<u>U.S. Filing Date</u>	<u>Art Unit</u>
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FEES

IV. THIS IDS IS BEING FILED UNDER 37 C.F.R. §1.97(b): (check one box)

- a. within three months of the filing date of a national application (37 C.F.R. § 1.97(b)(1)). No fee or statement is required.
- b. within three months of the date of entry of the national stage as set forth in § 1.491 in an international application (37 C.F.R. § 1.97(b)(2)). No fee or statement is required.
- c. before the mailing date of a first Office Action on the merits (37 C.F.R. § 1.97(b)(3)). No fee or statement is required.
- d. In the event that a first Office Action on the merits has been issued, please consider this IDS under 37 C.F.R. § 1.97(c) and see the statement under 37 C.F.R. § 1.97(e) provided below, or if no statement has been made, charge Deposit Account No. 50-2117 the fee set forth in 37 C.F.R. § 1.17(p).

V. THIS IDS IS BEING FILED UNDER 37 C.F.R. §1.97(c): (check one box)

before the mailing date of either a Final Office Action under 37 C.F.R. § 1.113 (See 37 C.F.R. § 1.97(c)), or a Notice of Allowance under 37 C.F.R. § 1.311 (See 37 C.F.R. § 1.97(c)).

- a. No statement; therefore, charge Deposit Account No. 50-2117 the fee set forth in 37 C.F.R. § 1.17(p).
- b. See the statement below. No fee is required.

VI. THIS IDS IS BEING FILED UNDER 37 C.F.R. §1.97(d):

on or before payment of the issue fee and is accompanied by the following:

- 1) A statement under 37 C.F.R. § 1.97(e) as provided below;
- 2) Applicant(s) hereby a petition for consideration of this information disclosure statement; and
- 3) Charge Deposit Account No. 50-2117 the petition fee set forth in § 1.17(i).

VII. Statement under 37 C.F.R. §1.97(e) (check only one box, if applicable)

The undersigned hereby states that:

- a. each item of information contained in the IDS was cited in a communication from a foreign Patent Office is a counterpart foreign application not more than three months prior to the filing of IDS; or
- b. no item of information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application, and to knowledge of the person signing the statement after making reasonable inquiry, no item of information contained in the IDS was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this statement, or
- c. some of the items of information contained in the IDS were cited in a communication from a foreign Patent Office. As to this information, the undersigned states that each item of information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application not more than three months prior to the filing of this IDS. As to the remaining information, the undersigned hereby states that no item of this remaining information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application or, to the knowledge of the person signing the statement after making reasonable inquiry, no item of information contained in the IDS was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this statement.

VIII. **PAYMENT OF FEES** (check one box)

- A check in the amount of \$ _____ is enclosed for the above-identified fee(s).
- Please charge Deposit Account No. 50-2117 in the amount of \$180.00 for the above-indicated fee(s).
- If Applicant has overlooked any additional fees, or if any overpayment has been made, the Commissioner is hereby authorized to credit or debit Deposit Account No. 50-2117.
- Two Copies of this paper are attached for Deposit Account charges and debits.

The above references are being cited only in the interests of candor and without any admission that they constitute statutory prior art or contain matter which anticipates the invention or which would render the same obvious, either singly or in a combination, to a person of ordinary skill in the art.

If the Examiner has any questions concerning this IDS, he/she is requested to contact the undersigned. If it is determined that this IDS has been filed under the wrong rule, the PTO is requested to consider this IDS under the proper rule (with a petition if necessary) and charge the appropriate fee to Deposit Account No. 50-2117.

Respectfully submitted,



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Facsimile: 954-723-5599

Customer No.

Enclosures: PTO/SB/08
 References
 Foreign Search Report
 Other: